

UNITED STATES OF AMERICA,)
)
Vs.) **ORDER**
)
MICHAEL JOHN STARK.)
)
_____)

Findings. On April 14, 2016 a bill of information was issued charging the Defendant with possessing materials that contained child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B). On April 25, 2016, the undersigned held an inquiry, pursuant to Rule 11 of the Federal Rules of Criminal Procedure and accepted a plea of guilty of Defendant to that charge. At the end of the Rule 11 proceeding, this

Court presented the issue of whether or not Defendant should now be detained, pursuant to 18 U.S.C. § 3143(a)(2).

Discussion. 18 U.S.C. § 3143(a)(2) provides as follows:

(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless ----

(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; or

(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.

From an examination of the records in this cause, it appears that Defendant has now entered a plea of guilty to possessing materials that contained child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B) which is considered to be a crime of violence as provided by 18 U.S.C. § 3142(f)(1)(A).

The undersigned made an inquiry of AUSA Richard Edwards as to whether or not there is going to be a recommendation that no sentence of imprisonment be imposed upon Defendant. Mr. Edwards advised the Court that such a recommendation could not be made in this matter.

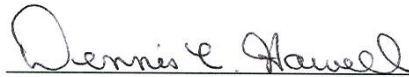
Due to the plea of guilty, the undersigned cannot find there is a substantial

likelihood that a motion for acquittal or new trial will be granted. It would thus appear, and the Court is of the opinion that the Court is required to apply the factors as set forth under 18 U.S.C. § 3143(a)(2) which mandate the detention of Defendant.

ORDER

IT IS, THEREFORE, ORDERED, that Defendant be detained pending sentencing and further proceedings in this matter.

Signed: April 27, 2016

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Dennis L. Howell
United States Magistrate Judge

